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DRAFT STATUTORY INSTRUMENTS

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**2018 No.**

**The Short Selling (Amendment) (EU Exit) Regulations 2018**

**PART 3**

**Amendments of Regulation (EU) No 236/2012**

**Competent Authorities**

- 13.**—(1) Omit Articles 32 and 33.
- (2) In Article 34—
- (a) in paragraph 1, for “competent authority” in each place it occurs, substitute “FCA”;
  - (b) in paragraph 2—
    - (i) for “exchanged between the competent authorities” substitute “exchanged between the Treasury, the PRA or the FCA, or received by the Treasury, the PRA or the FCA from another authority”;
    - (ii) for “competent authority” substitute “authority from which the information is received”.
- (3) Omit Articles 35, 36 and 37.
- (4) In Article 38—
- (a) in paragraph 1—
    - (i) for “competent authorities”, the first time it occurs, substitute “FCA”;
    - (ii) for “competent authorities to carry out their” substitute “FCA to carry out its”;
    - (iii) omit the final sentence;
  - (b) in paragraph 2, for “relevant competent authority” substitute “FCA”;
  - (c) omit paragraph 3;
  - (d) in paragraph 4—
    - (i) for “competent authorities shall” substitute “FCA may”;
    - (ii) for “those competent authorities” substitute “the FCA”.
- (5) For Article 39, substitute—

*“Article 39*

*Transfer and retention of personal data*

Nothing in this Regulation is to be taken as authorising a disclosure of personal data in contravention of Regulation (EU) No 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data or of the Data Protection Act 2018(1).”

(6) In Article 40—

- (a) for the first sentence of the first paragraph, substitute “The FCA may transfer data and the analysis of data to a supervisory authority of another country where the transfer does not contravene Regulation (EU) No 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data or the Data Protection Act 2018, but such transfer may only be made on a case-by-case basis.”;
- (b) in the second sentence of the first paragraph, for “competent authority shall” substitute “FCA must”;
- (c) in the last sentence of the first paragraph, for “competent authority” substitute “FCA”;
- (d) for the second paragraph, substitute—

“The FCA shall disclose information which is confidential pursuant to Article 34 and which is received from a competent authority of a third country to a competent authority of another country only where the FCA has obtained the express agreement of the competent authority which transmitted the information and, where applicable, the information is disclosed solely for the purposes for which that competent authority gave its agreement.”

(7) Omit Article 41.